

Appl. No. : 09/912,646
Filed : July 24, 2001

REMARKS

Claims 1-28 are pending and under consideration. Reconsideration and allowance of Claims 1-28 in light of the present remarks is respectfully requested.

Discussion of Evidence

The Examiner argued that the evidence of prior invention submitted was insufficient to establish conception of the invention prior to the Bocionek reference. The Examiner argued that while the exhibits do describe a product that shows the functionality of the claims, they lacked dating or ownership information that would allow the Examiner to conclude that Applicant conceived of the idea, and on a date prior to January 16, 2001. Applicant strongly disagrees.

When alleging that conception or a reduction to practice occurred prior to the effective date of the reference, the dates in the oath or declaration may be the actual dates or, if the applicant or patent owner does not desire to disclose his or her actual dates, he or she may merely allege that the acts referred to occurred prior to a specified date (MPEP §715.07). In the instant application, the inventor, Steven Walrath stated that Exhibits A and B were true and correct copies of diagrams created prior to January 16, 2001. Accordingly, the Walrath Declaration and evidence is sufficient to demonstrate prior invention by the inventor prior to January 16, 2001.

In addition, the Examiner argues that the exhibits are inadequate because they do not show ownership information that would allow the Examiner to conclude that Applicant conceived of the idea. However, the exhibits themselves are not required to provide such a showing. The Walrath Declaration clearly states that the inventor created the Exhibits (Walrath Decl. para 4) prior to January 16, 2001 and the Examiner has no basis, in view of the inventor's sworn statement, to believe otherwise.

The Examiner also argues that the evidence submitted was insufficient to establish a reduction to practice of the invention, and alleges that this requirement is higher than that of conception and typically requires finished code or the like. Applicant respectfully disagrees that finished code is required to demonstrate reduction to practice of the claimed subject matter.

In general, proof of actual reduction to practice requires a showing that the apparatus actually existed and worked for its intended purpose (MPEP §715.07). Claim 1 relates to a system having a server with a stored electronic page having a first browser component

Appl. No. : 09/912,646
Filed : July 24, 2001

configured to display a first electronic page and a second browser component configured to display a second electronic page within the stored electronic page. The system also has a client computer with a browser program configured link with the server, download the first and second electronic pages, and display the stored electronic page, wherein the first browser component is active and displays the first electronic page to a user, and the second browser component is inactive and does not display said second electronic page to the user; and a software control on the stored electronic page for selecting between said first browser component and said second browser component, wherein selecting the first browser component results in said first electronic page being displayed to the user and the second electronic page becoming hidden from said user and wherein selecting the second browser component results in the second electronic page being displayed to the user and the first electronic page becoming hidden from the user.

The eApplication shown in the screen shots of Exhibits A and B was created by the inventor prior to January 16, 2001, as stated in paragraph 4 of the Walrath Declaration. Diagram 4, submitted with the Walrath Declaration clearly shows a diagram of an eApplication system. As explained, the eApplication is “a multiple simultaneous web page presentation. Each web page is encapsulated in a tab. Each tab is labeled as to the purpose of the web page container therein.” At the bottom of Diagram #4 is an actual screen shot of such a tab-based system. Accordingly, this shows that the eApplication would have multiple simultaneous browser components on a page, wherein each browser component is selected using a software control, shown on the Exhibits as a tab.

Diagram 13 shows another screen shot from the eApplication. In that page, a series of tabs labeled “Time Entry”, “New Employee”, “Summary”, “Reports”, “Configuration”, and “eApplication Help” are shown across the top. In Diagram #13, the “Time Entry” tab is selected and time entry information is displayed. In Diagram #15, the “New Employee” tab has been selected, and information for entering a new employee is shown. The prior information on time entry has been hidden. Diagram #17 shows that the “Summary” tab has been selected and summary information is provided to the user. Other information from the other tabs has been hidden.

Accordingly, the eApplication system shown by the screen shots of Exhibits A and B are clearly from a system that uses a tab control to select between multiple browser components. As

Appl. No. : 09/912,646
Filed : July 24, 2001

shown, selection of one tab results in the browser component associated with that tab being displayed, while the browser components associated with other tabs are hidden. The Examiner even admits that the Exhibits describe a product that shows the functionality of the claims. In addition, the Declaration recites that the eApplication product was created prior to January 16, 2001 (*see* Walrath Decl at para 4).

Accordingly, the Walrath Declaration submitted previously by Applicant is sufficient to establish that the inventor had conceived and reduced the claimed invention to practice in the United States prior January 16, 2001. Applicant respectfully requests withdrawal of the pending rejections and allowance of the application.

Applicant has endeavored to address all of the Examiner's concerns as expressed in the outstanding Office Action. Accordingly, arguments in support of the patentability of the pending claim set are presented above. In light of these remarks, reconsideration and withdrawal of the outstanding rejections is respectfully requested. Should the Examiner wish to discuss these or any other issues regarding the aforementioned, he is invited to contact the undersigned at the telephone number provided below.

Please charge any additional fees, including any fees for additional extension of time, or credit overpayment to Deposit Account No. 11-1410.

Respectfully submitted,

KNOBBE, MARTENS, OLSON & BEAR, LLP

Dated: January 29, 2008

By: 

Michael L. Fuller
Registration No. 36,516
Attorney of Record
Customer No. 20,995
(619) 235-8550

4813331
012808